IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 164 OF 2007

Shri Gajanan Maharaj Sansthan,
Shegaon :: PETITIONER

-: Versus :-

Regional Provident Fund Commissioner
and others :: RESPONDENTS

CORAM: R. V. MORE, J.
DATED: 04th April, 2007.

P.C. :

1. Heard Mr. A. R. Patil, learned Counsel for the petitioner and Mr. R. S. Sundaram, learned Counsel for respondents No. 1 & 2.

2. Leave to add Central Board of Trustees, E.P.F., New Delhi as party-respondent No.4.

3. Mr. Sundaram, learned Counsel waives service for added respondent No.4.

4. The petitioner is religious charitable trust. The petition pertains to Section 7-A enquiry under the Employees' Provident Fund

and Misc. Provisions Act, 1952 (for short, the Act, 1952) conducted by the Assistant Provident Fund Commissioner. Previously summons was issued by the Assistant Provident Fund Commissioner under Section 7-A of the Act, 1952 to the petitioner-management which was subject matter of writ petition No. 1689 of 1993. The contention of the petitioner in that petition, in short, was that provisions of the Act, 1952 are not applicable to the petitioner-trust. The petition was heard on 08/9/2005 and came to be disposed of with liberty to file application under Section 17 for exemption with the appropriate forum.

5. The petitioner-trust thereafter preferred an application on 04/10/2005 to the Regional Provident Fund Commissioner under Section 17 of the Act, 1952 for exemption from the applicability of the provisions of the Act, 1952 and this application is required to be entertained by the Central Board of Trustees of the Employees' Provident Fund. This application has already been forwarded to the Board. However, same is pending for decision.

6. During the pendency of representation made above under Section 17 of the Act, 1952, the petitioner again preferred an application to drop proceedings under Section 7-A of the Act, 1952 or in the alternative stay the proceedings. This application is at annexure-Z-I. The Assistant

Provident Fund Commissioner gave reply to the representation by his letter dated 14/11/2006 which reply is impugned in the present writ petition.

7. Mr. Sundaram, learned Counsel for the respondents make a statement that in the year 1993 the applicability of the Act vis a vis to the petitioner's establishment was decided and same issue is concluded by the judgment of this Court in writ petition No. 1689 of 1993. Therefore, now in the present enquiry under Section 7-A of the Act, 1952 the authorities will consider the determination of the dues to the petitioner's establishment. The proceedings under Section 7-A for determination of these dues are going on and yet the final order is not passed and, therefore, the present petition is filed at premature stage.

8. This Court by passing order in writ petition No. 1689 of 1993 gave liberty to the petitioner to prefer application under Section 17 for exemption. As stated above, the said application has been preferred and the same is pending for disposal before the Board. The respondent-authority has already been directed to dispose of this application within a period of four months from the receipt thereof. The said application has been filed on 04/10/2005 and the same is not decided as on today. In this circumstance, the respondents-authorities are deserves to be directed to

decide the application. I, therefore, pass the following order.:

(1) Respondent No.4-Central Board of Trustees is directed to dispose of the petitioner's application dated 04/10/2005 (annexure-P) filed under Section 17 of the Act, 1952 for exemption within a period of two months from the date of receipt of this order.

(2) Respondent No.1 is at liberty to continue the proceedings under Section 7-A of the Act, 1952 to determine the dues under the Act vis a vis petitioner's establishment-trust.

(3) Needless to mention that the decision in the proceedings under Section 7-A will be subject to the decision of the application filed under Section 17-A of the Act.

(4) The petitioner-trust is at liberty to raise objection regarding the provident fund dues.

(5) All the points are kept open.

(6) The writ petition is disposed of in above terms with no order as to costs.

JUDGE

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